

REMARKS

Applicants respectfully request entry of the above amendments and reconsideration of the application. As amended, Claims 32-36, 40, 42-47, 49-57, 59, 60 and 65-67 remain in the case, other claims having been canceled because of consolidation and to avoid repetition.

In rejecting certain of the claims, the Examiner relied upon the Hecox et al. patent but applicants respectfully submits that the Examiner has misconstrued the disclosure of Hecox et al. Hecox et al. is a multiple station exercise machine but the portion relevant, if at all, to applicants' invention is the fourth exercise performed with the pivot arm (142) in its lowest position as shown in Fig. 9D. As described at Col. 6, lines 29-41, the resistance mechanisms (141) are moved to horizontal positions on pivot axes (145). The main pivot arm (142), however, is first rendered stationary by inserting a "butterfly lockout pin" (250) through aperture (251). Thereafter, the seated user pushes the arm levers (143) and (144) toward one another so that the user's arms ultimately meet. At no time, however, do both pivot arm (142) and arm levers (143) and (144) move simultaneously to allow the user to perform either a straight chest press exercise motion or one incorporating a butterfly motion as presently claimed. In the Office Action, the Examiner acknowledged that applicants' claimed mode of operation was not disclosed by Hecox et al. but stated that "the secondary arms and main arm member are capable of the claimed movement." Applicants respectfully disagree since the disclosure of Hecox et al. makes clear that "the user must make pivot arm (142) stationary by inserting a butterfly lockout pin (250) through aperture (251)" before use.

Further Hecox et al. does not disclose a source of resistance comprising a weight coupled to the press arm via one or more cables. Hecox et al. discloses "resistance mechanisms" (141) which are moved between various locations depending on the exercise performed. Hecox et al.

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{LLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

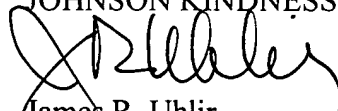
thus fails to teach each and every element set forth in the claims as amended as required under 35 U.S.C. § 102(b).

The Deola design patent discloses the design of a particular unique exercise device and, as such, should be construed narrowly to what is actually pictured in the design patent. While Deola may be construed to disclose a press arm having a main arm member and a pair of inwardly pivotal secondary arms, the secondary arms are clearly disclosed as resting at the horizontal position not angled downwardly as claimed by applicants. Further, the secondary axes about which the secondary arms pivot are oriented in such a way that they are never inclined from the vertical in a forward direction as claimed by applicant. (See Figs. 2 and 5 of Deola). Thus, Deola does not disclose each and every element of applicants' invention as claimed and as required by 35 U.S.C. § 102(b).

Applicants respectfully submit that the claims, as now presented, are allowable and allowance is respectfully requested.

Respectfully submitted,

CHRISTENSEN O'CONNOR
JOHNSON KINDNESS^{PLLC}



James R. Uhler
Registration No. 25,096
Direct Dial No. 206.695.1703

I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed envelope as first class mail with postage thereon fully prepaid and addressed to Mail Stop Non Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the below date.

Date:

1-20-04



JRU:cjd/ctg

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100